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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/308,314	05/13/1999	JOACHIM BANDEMER	3446US	5993

7590 11/05/2003

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866 UNITED NATIONS PLAZA
SUITE 473
NEW YORK, NY 10017

EXAMINER

GRAHAM, GARY K

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/308,314

Applicant(s)

BANDEMER ET AL.

Examiner

Gary K Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12 and 14-34 is/are pending in the application.
- 4a) Of the above claim(s) 4,7-12,18-24 and 34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,5,6,14-17 and 25-30 is/are allowed.
- 6) ☒ Claim(s) 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Amended claim 34 is still directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 34 is directed to a method of directing fluid on a shield of a vehicle while claims 1, 25, 31-33 and all claims dependent thereon are directed to a shield cleaning system. The shield cleaning system and the method of directing fluid are related as product and process of using. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the method as is claimed can be used with a materially different product, such as one that does not employ a washing arm or carrier, in particular a washing arm or carrier that moves with an orientation parallel to the basic position along a prescribed path.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 34 is still withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

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Also, please note that claims 4, 7-12 and 18-24 cannot be rejoined since they depend from claims that are not generic. The resulting structure in said claims is not consistent with that which is disclosed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox (GB patent 2,026,851) in view of Bray Jr. (U.S. patent 4,463,904).

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The patent to Wilcox discloses the invention substantially as is claimed (note figure 6), including washing arm or carrier (83) which has a push rod (84). The washing arm is adapted for linear movement over shield (80) at a distance therefrom by operation of a motor (13). The washing arm has a washing nozzle (82) thereon for supplying fluid to said shield. Said nozzle appears to be sprayable during all movement of the washing arm for complete cleaning of the shield. The motor (13) drives said arm over the shield via water pressure. And said rod (84) interconnects the motor with said arm.

The patent Wilcox discloses all of the above recited subject matter with the exception of the nozzle being a "fluidic nozzle" which provides an oscillating spray pattern.

The patent to Bray discloses a fluidic nozzle that produces an oscillating spray pattern to provide wide coverage on a windshield surface. The nozzle has a swirl chamber (26) with return ducts (24,25) to an inlet region (21) of said swirl chamber. Such an arrangement induces the oscillation of the emerging fluid in the same manner applicant's does.

It would have been obvious to one of skill in the art to provide the device of Wilcox with a fluidic nozzle, as taught by Bray, to provide increased spray coverage as well as increased cleansing action. To provide such oscillation transverse to the direction of movement of the washing arm appears obvious such that the entire shield receives spray. Otherwise, the shield would only be partially cleaned. Use of fluidic nozzles is well known to increase spray coverage in the shield cleaning art.

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Response to Arguments

Applicant's arguments with respect to claims 31-33 have been considered but are moot in view of the new ground(s) of rejection. Wilcox does disclose simultaneous movement and spraying, and the motor (13) does act to drive or displace the washing arm.

Allowable Subject Matter

Claims 1, 3, 5, 6, 14-17, 25-30 are allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

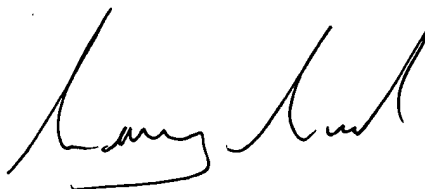
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 703-308-1270. The examiner can normally be reached on Tuesday to Friday (6:30-4:00). Please note that the Examiner telephone number will be changing sometime in December 2003. The new number will be 571-272-1274.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 703-308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Gary K Graham
Primary Examiner
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